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JOINT APPLICATION OF

**GROUNDHOG MTN. PROPERTY
OWNERS, INC.**

CASE NO. PUE990814

and

**GROUNDHOG MTN. WATER &
SEWER COMPANY, INC.**

**For authority to acquire and to dispose of utility
assets pursuant to the Transfers Act and
for certificates of public convenience and
necessity pursuant to §§ 56-265.2 and 56-265.3**

HEARING EXAMINER'S RULING

June 4, 2001

Pursuant to Commission Order dated April 11, 2001, and Hearing Examiner's Ruling dated April 18, 2001, a hearing date and procedural schedule for the filing of prepared testimony and exhibits were established for the captioned proceeding.

On May 31, 2001, Doe Run Properties, LLC and The Doe Run at Groundhog Mountain, Inc. ("Protestants"), by counsel, filed a Motion for Extension, requesting that the June 5, 2001, deadline for filing their (i) Protest; (ii) interrogatories to each of the Joint Applicants; and (iii) Requests for Production be extended to June 15, 2001.¹ In support of the Motion, Protestants state they need additional time due to the complexity of the Joint Application and numerous supplements, corrections, and clarifications filed thereto.

The Joint Applicants, by counsel, filed a Response on June 4, 2001, in which they state the Protestants' Motion contains "allegations of misrepresentation and similar inflammatory language."² The Applicants object to any extension of time that would shorten the period of time for Applicants to file their rebuttal testimony.

I have been advised that Staff has no objection to the request for extension.

It is evident from the tone of the pleadings filed in this case that nothing will be routine. Counsel are advised that the facts, not rhetoric, will be the deciding factor in this case. I find the Protestants' request for a ten-day extension for filing its prepared testimony and exhibits is

¹ The Commission's April 11, 2001, Order for Notice and Hearing does not establish a June 5, 2001, filing deadline for discovery requests. Therefore, Protestants' Motion will be considered a request to extend the deadline for filing their Protest and prepared testimony and exhibits.

² Response at 1.

reasonable. This places the Applicants at a slight disadvantage. The Applicants' rebuttal testimony is due on July 10, 2001, and the hearing is scheduled for July 17, 2001. The last date available for the Applicants to prefile their rebuttal testimony is July 13, 2001. The Protestants' prefiled testimony will most likely elicit the need for the majority of the Applicants' rebuttal testimony. With the modified schedule, the Applicants still have almost 30 days to respond, in writing, to this testimony. Accordingly,

IT IS DIRECTED:

(1) That Protestants shall file with the Commission, on or before June 15, 2001, an original and seven (7) copies of their Protest, and the prepared testimony and exhibits they intend to present at the July 17, 2001, hearing, and shall simultaneously serve a copy thereof on counsel for Staff and counsel for the Applicants by facsimile;

(2) That Staff shall, on or before June 27, 2001, file with the Clerk of the Commission an original and seven (7) copies of the prepared testimony and exhibits it intends to present at the July 17, 2001, hearing and shall simultaneously serve a copy thereof on counsel for the Applicants and counsel for Protestants by facsimile; and

(3) That, on or before July 13, 2001, the Applicants shall file with the Clerk of the Commission an original and five (5) copies of any testimony they expect to introduce in rebuttal to any direct prefiled testimony of Staff and Protestants. The Applicants shall simultaneously serve a copy thereof on counsel for Staff and counsel for Protestants by facsimile.

Michael D. Thomas
Hearing Examiner